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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,449	02/07/2002	Lukas Novotny	176/60921 (2-11150-912)	9533

7590
Gunnar G. Leinberg, Esq.
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603-1051

11/27/2007

EXAMINER

STAHL, MICHAEL J.

ART UNIT	PAPER NUMBER
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2874

MAIL DATE	DELIVERY MODE
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11/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/068,449

Applicant(s)

NOVOTNY ET AL.

Examiner

Mike Stahl

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28, 31-38 and 40-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-28, 31-38 and 40-59 is/are allowed.
- 6) ☒ Claim(s) 60 and 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 60-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (US 5883988).

Claim 60: Yamamoto discloses a system (fig. 11) comprising: an elongated optical element 3; at least one structure 3B2 at least partially in a non-opaque portion of the optical element; and a source of light 13₂ positioned to propagate at least a portion of the light through the optical element in a direction generally parallel to a surface of the elongated optical element which faces an object (the object being for example the portion of absorption region 5 which is under electrode 8₂), the structure enhancing the electric field of the light propagating through the optical element which interacts with the object.

Claim 61: The act of providing the system described above with regard to claim 60 meets the recited steps.

Claims 60-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimada et al. (US 4937808).

Claim 60: Shimada discloses a system (fig. 1A) comprising: an elongated optical element 3; at least one structure 8 at least partially in a non-opaque portion of the optical

element; and a source of light **4** positioned to propagate at least a portion of the light through the optical element in a direction generally parallel to a surface of the elongated optical element which faces an object **7**, the structure enhancing the electric field of the light propagating through the optical element which interacts with the object.

Claim 61: The act of providing the system described above with regard to claim 60 meets the recited steps.

Response to Amendment (September 12, 2007)

The rejections of claims under the Kurita and Keilmann references in the last Office action have been withdrawn in view of the changes to claims 9, 22, 31, 40, and 60-61. The distinctions between the amended claims and the previously applied references are explained in the remarks.

Allowable Subject Matter

Claims 1-8, 14-21, 27-28, 36-38, and 45-59 remain allowed as set forth in the last Office action (mailed March 12, 2007). Claims 9-13, 22-26, 31-35, and 40-44 are presently allowed since base claims 9, 22, 31, and 40 were amended to distinguish over previously applied art (see above).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiries about this letter may be directed to examiner Stahl at the number below. Inquiries of a general or clerical nature (e.g., a request for a missing form or paper, etc.) should be directed to the technical support staff supervisor at 571-272-1626. Official correspondence which is eligible for submission by facsimile and which pertains to this application may be faxed to 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about

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the PAIR system, see <http://pair-direct.uspto.gov>. Questions about the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mike Stahl *MJS*
2874
571-272-2360

November 22, 2007

M.R. Connelly-Cushwa
MICHELLE CONNELLY-CUSHWA
PRIMARY EXAMINER
11/26/07